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SECOND ENGROSSED SUBSTITUTE SENATE BILL 5012

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State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Education (originally sponsored by Senators Johnson, Finkbeiner, Esser and Oke)

READ FIRST TIME 02/04/03.

1 AN ACT Relating to charter schools; amending RCW 41.59.080 and  
2 28A.150.010; adding a new section to chapter 41.56 RCW; adding a new  
3 section to chapter 41.59 RCW; and adding a new chapter to Title 28A  
4 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to  
7 authorize the establishment of public charter schools within the  
8 general and uniform system of public schools for the primary purpose of  
9 providing more, high quality learning environments to assist  
10 educationally disadvantaged students and other students in meeting the  
11 state's academic standards. The legislature intends for charter  
12 schools to function as an integral element of the public school system  
13 maintained at public expense, free from discrimination, and open to all  
14 students in the state, and to be subject to the same academic standards  
15 and performance outcomes as other public schools. The legislature  
16 intends to encourage school districts to consider using the chartering  
17 process as an optional tool for achieving state and federal  
18 accountability goals. The legislature finds that in addition to  
19 providing more, high quality public school choices for families,

1 teachers, and students, public charter schools may be a tool for the  
2 improvement of schools in which significant numbers of students  
3 persistently fail to meet state standards. The legislature also  
4 intends to authorize the use of the chartering process as a state  
5 intervention strategy, consistent with the provisions of the federal no  
6 child left behind act of 2001, to provide assistance to schools in  
7 which significant numbers of students persistently fail to meet state  
8 standards.

9 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly  
10 requires otherwise, the definitions in this section apply throughout  
11 this chapter.

12 (1) "Alternate sponsor" means either: (a) The board of directors  
13 of the educational service district in which the proposed charter  
14 school will be located; or (b) the governing board of a state or  
15 regional university as defined in RCW 28B.10.016 or of The Evergreen  
16 State College, when such board has approved a charter.

17 (2) "Applicant" means a nonprofit corporation that has submitted an  
18 application to a sponsor or an alternate sponsor to obtain approval to  
19 operate a charter school. The nonprofit corporation must be either a  
20 public benefit nonprofit corporation as defined in RCW 24.03.490, or a  
21 nonprofit corporation as defined in RCW 24.03.005 that has applied for  
22 tax-exempt status under section 501(c)(3) of the internal revenue code  
23 of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not  
24 be a sectarian or religious organization and must meet all of the  
25 requirements for a public benefit nonprofit corporation before  
26 receiving any funding under section 12 of this act.

27 (3) "Board of directors" means the board of directors appointed or  
28 elected by the applicant to manage and operate the charter school.

29 (4) "Charter" means a five-year contract between an applicant and  
30 a sponsor or an alternate sponsor. The charter establishes, in  
31 accordance with this chapter, the terms and conditions for the  
32 management, operation, and educational program of the charter school.

33 (5) "Charter school" means a public school managed by an  
34 applicant's board of directors and operating independently of any  
35 school district board under a charter approved in accordance with this  
36 chapter.

1 (6) "Conversion charter school" means a public school converted to  
2 a charter public school through the chartering process in accordance  
3 with this chapter.

4 (7) "Educationally disadvantaged students" includes students with  
5 limited English proficiency; students with special needs, including  
6 students with disabilities; economically disadvantaged students,  
7 including students who qualify for free and reduced priced meals;  
8 students exercising choice options under the federal no child left  
9 behind act of 2001; and other students who may be at risk of failing to  
10 meet state and federal academic performance standards.

11 (8) "Sponsor" means the board of directors of the school district  
12 in which the proposed charter school will be located, when such board  
13 has approved a charter.

14 NEW SECTION. **Sec. 3.** CHARTER SCHOOLS--POWERS. (1) In carrying  
15 out its duty to manage and operate the charter school, the board of  
16 directors of a charter school may:

17 (a) Hire, manage, and discharge any charter school employee in  
18 accordance with the terms of this chapter and that school's charter;

19 (b) Enter into a contract with any school district, or any other  
20 public or private entity, also empowered to enter into contracts, for  
21 any and all real property, equipment, goods, supplies, and services,  
22 including educational instructional services;

23 (c) Rent, lease, or own property, but may not acquire property by  
24 eminent domain. All charters and charter school contracts with other  
25 public and private entities must include provisions regarding the  
26 disposition of the property if the charter school fails to open as  
27 planned, closes, or the charter is revoked or not renewed;

28 (d) Issue secured and unsecured debt to manage cash flow, improve  
29 operations, or finance the acquisition of real property or equipment.  
30 Such an issuance does not constitute an obligation, either general,  
31 special, or moral of the state, the charter school sponsor, the school  
32 district in which the charter school is located or any other political  
33 subdivision or agency of the state. Neither the full faith and credit  
34 nor the taxing power of the state, the charter school sponsor, the  
35 school district in which the charter school is located, or any other  
36 political subdivision or agency of the state may be pledged for the  
37 payment of such debt;

1 (e) Accept and administer for the benefit of the charter school and  
2 its students gifts, grants, and donations from other governmental and  
3 private entities, excluding sectarian or religious organizations.  
4 Charter schools may not accept any gifts or donations the conditions of  
5 which violate this chapter.

6 (2) A charter school may not charge tuition, levy taxes, or issue  
7 tax-backed bonds, however it may charge fees for optional noncredit  
8 extracurricular events.

9 (3) Neither a charter school sponsor, an alternate sponsor, nor the  
10 school district in which the charter school is located is liable for  
11 acts or omissions of a charter school, including but not limited to  
12 acts or omissions related to the application, the charter, the  
13 operation, the performance, and the closure of the charter school.

14 NEW SECTION. **Sec. 4.** LEGAL STATUS. A charter school is a public  
15 school including one or more of grades kindergarten through twelve,  
16 operated by a board of directors appointed or elected by a charter  
17 school applicant, according to the terms of a renewable five-year  
18 contract granted by a sponsor or an alternate sponsor. A charter  
19 school may offer any program or course of study that another public  
20 school may offer.

21 NEW SECTION. **Sec. 5.** CHARTER SCHOOLS--EXEMPTIONS. (1) A charter  
22 school shall operate independently of any school district board, under  
23 a charter approved by a sponsor or an alternate sponsor under this  
24 chapter.

25 (2) Charter schools are exempt from all state statutes and rules  
26 applicable to school districts and school district boards of directors  
27 except those statutes and rules as provided for and made applicable to  
28 charter schools in accordance with this chapter and in the school's  
29 approved charter.

30 (3) A charter school's board of directors is encouraged to  
31 implement a quality management system and to conduct an annual self-  
32 assessment.

33 (4) All approved charter schools shall:

34 (a) Comply with state and federal health, safety, parents' rights,  
35 civil rights, and nondiscrimination laws, including, but not limited

1 to, chapter 28A.640 RCW (sexual equality) and Title IX of the education  
2 amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) applicable to school  
3 districts, and to the same extent as school districts;

4 (b) Participate in free and reduced priced meal programs to the  
5 same extent as is required for other public schools;

6 (c) Participate in nationally normed standardized achievement tests  
7 as required in RCW 28A.230.190, 28A.230.193, and 28A.230.230 and the  
8 elementary, middle school, and high school standards, requirements, and  
9 assessment examinations as required in chapter 28A.655 RCW;

10 (d) Employ certificated instructional staff as required in RCW  
11 28A.410.010, however charter schools may hire noncertificated  
12 instructional staff of unusual competence and in exceptional cases as  
13 specified in RCW 28A.150.260;

14 (e) Comply with the employee record check requirements in RCW  
15 28A.400.303;

16 (f) Be subject to the same financial and audit requirements as a  
17 school district, as determined by the state auditor, including annual  
18 audits for legal and fiscal compliance;

19 (g) Be subject to periodic independent performance audits conducted  
20 by or at the direction of a competent state authority to the same  
21 extent as other public agencies, however, a charter school is not  
22 required to bear the expense of such a performance audit;

23 (h) Comply with the annual performance report under RCW  
24 28A.655.110;

25 (i) Follow the performance improvement goals and requirements  
26 adopted by the academic achievement and accountability commission by  
27 rule under RCW 28A.655.030;

28 (j) Be subject to the accountability requirements of the federal no  
29 child left behind act of 2001, including Title I requirements;

30 (k) Comply with and be subject to the requirements under the  
31 individuals with disabilities education act, as amended in 1997;

32 (l) Report at least annually to the board of directors of the  
33 school district in which the charter school is located, to the school's  
34 alternate sponsor if the school is not sponsored by a school district,  
35 and to parents of children enrolled at the charter school on progress  
36 toward the student performance goals specified in the charter;

37 (m) Comply with the open public meetings act in chapter 42.30 RCW  
38 and open public records requirements in RCW 42.17.250; and

1 (n) Be subject to and comply with legislation enacted after the  
2 effective date of this section governing the operation and management  
3 of charter schools.

4 (5) A member of a board of directors of a charter school shall be  
5 considered the equivalent of a board member of a school district for  
6 the purposes of public disclosure requirements and must comply with the  
7 reporting requirements in RCW 42.17.240.

8 NEW SECTION. **Sec. 6.** ADMISSION REQUIREMENTS. (1) To effectuate  
9 the primary purpose for which the legislature established charter  
10 schools, a charter school must be willing to enroll educationally  
11 disadvantaged students and may not limit admission on any basis other  
12 than age group and grade level. Consistent with the legislative intent  
13 of this chapter, a charter school shall conduct timely outreach and  
14 marketing efforts to educationally disadvantaged students in the school  
15 district in which the charter school will be located.

16 (2) A conversion charter school must be structured to provide  
17 sufficient capacity to enroll all students who wish to remain enrolled  
18 in the school after its conversion to a charter school, and may not  
19 displace students enrolled before the chartering process. If, after  
20 enrollment of these students, capacity is insufficient to enroll all  
21 other students remaining who have submitted a timely application, the  
22 charter school must give enrollment priority to siblings of students  
23 who are currently enrolled in the school. Students selected to fill  
24 any remaining spaces must be selected only through an equitable  
25 selection process, such as a lottery.

26 (3) A new charter school must enroll all students who submit a  
27 timely application if capacity is sufficient. If capacity is  
28 insufficient to enroll all students who apply, students must be  
29 selected to fill any remaining spaces only through an equitable  
30 selection process, such as a lottery. Siblings of enrolled students  
31 and of students selected through an equitable selection process must be  
32 given priority in enrollment if requested by a parent.

33 NEW SECTION. **Sec. 7.** CHARTER APPLICATION--CHARTERING PROCESS.  
34 (1) An applicant may apply to a sponsor or an alternate sponsor to  
35 establish a charter school in accordance with this section.

1 (2) An application for a charter school must be submitted first to  
2 the board of directors of the school district in which the proposed  
3 charter school will be located, allowing for the board's consideration  
4 of the application in accordance with subsections (3) and (4) of this  
5 section, before the application may be submitted to an alternate  
6 sponsor.

7 (3) The school district board of directors must decide, within  
8 forty-five days of receipt of the application, whether to hold a public  
9 hearing in the school district for the purpose of taking public comment  
10 on the application and, if a hearing is to be held, must schedule such  
11 a hearing within seventy-five days of receipt of the application. If  
12 the school board intends to accept the application, one or more public  
13 hearings must be held prior to the granting of a charter; however a  
14 school board is not required to hold a public hearing prior to  
15 rejecting an application. The school board must either accept or  
16 reject the application within one hundred five days after receipt of  
17 the application. The one hundred five-day deadline for acceptance or  
18 rejection of the charter school application may be extended for an  
19 additional thirty days if both parties agree in writing.

20 (4) If the school board elects not to hold a public hearing or  
21 rejects the application after holding one or more public hearings, the  
22 school board must notify the applicant in writing of the reasons for  
23 that decision. The applicant may submit a revised application for the  
24 school board's reconsideration and the school board may provide  
25 assistance to improve the application. If the school board rejects the  
26 application after submission of a revised application, the school board  
27 must notify the applicant in writing of the reasons for the rejection.

28 (5) Applications for the conversion of a public school to a charter  
29 public school may not be submitted to an alternate sponsor without the  
30 prior consent of the school district board of directors. At the  
31 request of the applicant, the sponsor, or the alternate sponsor, the  
32 superintendent of public instruction may review the charter application  
33 and provide technical assistance.

34 (6) Alternate sponsors must comply with the procedures in  
35 subsections (1) through (4) of this section for consideration of the  
36 charter application. An alternate sponsor is not bound by a school  
37 district's or another alternate sponsor's findings or decision to deny  
38 the application.

1 (7) The governing board of an institution of higher education that  
2 has approved a charter application may, after exercising due diligence,  
3 assign authority for the administration of the charter and the  
4 oversight and monitoring of the charter school to an agency or official  
5 designated by and accountable to the governing board of the  
6 institution. In all cases, the governing board of the institution is  
7 responsible for ensuring that the duties of the alternate sponsor under  
8 this chapter are fulfilled.

9 (8) The superintendent of public instruction shall maintain copies  
10 of all approved charter applications. An applicant may obtain copies  
11 of those applications from the office of the superintendent of public  
12 instruction.

13 (9) Educational service districts and the superintendent of public  
14 instruction are encouraged to assist schools and school districts in  
15 which significant numbers of students persistently fail to meet state  
16 standards with completing the chartering process. Assistance from an  
17 educational service district or from the superintendent of public  
18 instruction may include, but is not limited to, identifying potential  
19 eligible applicants and assisting with the charter application and  
20 approval processes.

21 (10) Consistent with the corrective action provisions in the  
22 federal no child left behind act of 2001, the superintendent of public  
23 instruction may use the chartering process as an intervention strategy  
24 for the purpose of meeting federal student achievement and  
25 accountability requirements. The superintendent may require a local  
26 school district board of directors to convert a public school to a  
27 charter public school or, if the superintendent determines it would be  
28 more appropriate, may require a local school district board of  
29 directors to consent to conversion of the school to a charter school by  
30 the board of directors of the local educational service district.

31 NEW SECTION. **Sec. 8.** APPLICATION REQUIREMENTS. The charter  
32 school application is a proposed contract and must include:

33 (1) The identification and description of the nonprofit corporation  
34 submitting the application, including the names, descriptions,  
35 curriculum vitae, and qualifications, which shall be subject to  
36 verification and review, of the individuals who will operate the  
37 school;



1 (2) The nonprofit corporation's proposed articles of incorporation,  
2 bylaws, and most recent financial statement and balance sheet;

3 (3) A mission statement for the proposed school, consistent with  
4 the description of legislative intent in this chapter, including a  
5 statement of whether the proposed charter school's primary purpose is  
6 to serve educationally disadvantaged students;

7 (4) A description of the school's educational program, curriculum,  
8 and instructional strategies, including but not limited to how the  
9 charter school will assist its students, including educationally  
10 disadvantaged students, in meeting the state's academic standards;

11 (5) A description of the school's admissions policy and marketing  
12 program, and its deadlines for applications and admissions, including  
13 its program for community outreach to families of educationally  
14 disadvantaged students;

15 (6) A description of the school's student performance standards and  
16 requirements that must meet those determined under chapter 28A.655 RCW,  
17 and be measured according to the assessment system determined under  
18 chapter 28A.655 RCW;

19 (7) A description of the school's plan for evaluating student  
20 performance and the procedures for taking corrective action in the  
21 event that student performance at the charter school falls below  
22 standards established in its charter;

23 (8) A description of the financial plan for the school. The plan  
24 shall include: (a) A proposed five-year budget of projected revenues  
25 and expenditures; (b) a plan for starting the school; (c) a five-year  
26 facilities plan; (d) evidence supporting student enrollment projections  
27 of at least twenty students; and (e) a description of major contracts  
28 planned for administration, management, equipment, and services,  
29 including consulting services, leases, improvements, purchases of real  
30 property, and insurance;

31 (9) A description of the proposed financial management procedures  
32 and administrative operations, which shall meet or exceed generally  
33 accepted standards of management and public accounting;

34 (10) An assessment of the school's potential legal liability and a  
35 description of the types and limits of insurance coverage the nonprofit  
36 corporation plans to obtain. For purposes of this subsection, a  
37 liability insurance policy of five million dollars is required;

1 (11) A description of the procedures to discipline, suspend, and  
2 expel students;

3 (12) A description of procedures to assure the health and safety of  
4 students, employees, and guests of the school and to comply with  
5 applicable federal and state health and safety laws and regulations;

6 (13) A description of the school's program for parent involvement  
7 in the charter school;

8 (14) Documentation sufficient to demonstrate that the charter  
9 school will have the liquid assets available to operate the school on  
10 an ongoing and sound financial basis; and

11 (15) Supporting documentation for any additional requirements that  
12 are appropriate and reasonably related to the operation of a charter  
13 school that a sponsor or alternate sponsor may impose as a condition of  
14 approving the charter.

15 NEW SECTION. **Sec. 9.** APPROVAL CRITERIA. A sponsor or alternate  
16 sponsor may approve an application for a charter school, if in the  
17 sponsor's or alternate sponsor's reasonable judgment, after exercising  
18 due diligence and good faith, the sponsor or alternate sponsor finds:

19 (1) The applicant is an eligible public benefit nonprofit  
20 corporation and the individuals it proposes to manage and operate the  
21 school are qualified to operate a charter school and implement the  
22 proposed educational program that is free from religious or sectarian  
23 influence;

24 (2) The public benefit nonprofit corporation has been approved or  
25 conditionally approved by the internal revenue service for tax exempt  
26 status under section 501(c)(3) of the internal revenue code of 1986 (26  
27 U.S.C. Sec. 501(c)(3));

28 (3) The mission statement is consistent with the description of  
29 legislative intent and restrictions on charter school operations in  
30 this chapter. The sponsor or alternate sponsor must make a finding of  
31 whether or not the charter school's primary purpose is to serve  
32 educationally disadvantaged students;

33 (4) The school's educational program, including its curriculum and  
34 instructional strategies, is likely to assist its students, including  
35 its educationally disadvantaged students, in meeting the state's  
36 academic standards;

1 (5) The school's admissions policy and marketing program is  
2 consistent with state and federal law, and includes community outreach  
3 to families of educationally disadvantaged students;

4 (6) The school's proposed educational program includes student  
5 academic performance standards and requirements that meet those  
6 determined under chapter 28A.655 RCW and are measured according to the  
7 assessment system determined under chapter 28A.655 RCW;

8 (7) The application includes a viable plan for evaluating pupil  
9 performance and procedures for taking appropriate corrective action in  
10 the event that pupil performance at the charter school falls below  
11 standards established in its charter;

12 (8) The financial plan for the school is designed to reasonably  
13 support the charter school's educational program based on a review of  
14 the proposed five-year budget of projected revenues, expenditures, and  
15 facilities;

16 (9) The school's financial and administrative operations, including  
17 its audits, meet or exceed generally accepted standards of accounting  
18 and management;

19 (10) The assessment of the school's potential legal liability, and  
20 the types and limits of insurance coverage the school plans to obtain,  
21 are adequate. For purposes of this subsection, a liability insurance  
22 policy of five million dollars is required;

23 (11) The procedures the school plans to follow for discipline,  
24 suspension, and expulsion of students are reasonable and comply with  
25 state and federal law;

26 (12) The procedures the school plans to follow to assure the health  
27 and safety of students, employees, and guests of the school comply with  
28 applicable state and federal health and safety laws and regulations;

29 (13) The school has developed a program for parent involvement in  
30 the charter school;

31 (14) The charter school will have the liquid assets available to  
32 operate the school on an ongoing and sound financial basis; and

33 (15) The applicant has met any additional requirements that are  
34 appropriate and reasonably related to the operation of a charter school  
35 that a sponsor or alternate sponsor imposed as a condition for approval  
36 of the charter.

1        NEW SECTION.    **Sec. 10.**    CHARTER AGREEMENT--AMENDMENT.        (1) A  
2 charter application approved by a sponsor or an alternate sponsor with  
3 any changes or additions, and signed by an authorized representative of  
4 the applicant and the sponsor or alternate sponsor, constitutes a  
5 charter. A charter for the conversion of a public school must include  
6 provisions for the disposition, including assignment or reassignment,  
7 of the employees of the school prior to its conversion and after  
8 conversion.

9        (2) A charter may be amended during its term at the request of the  
10 charter school board of directors and on the approval of the sponsor or  
11 alternate sponsor.

12        (3) A charter may not prohibit and must provide for application of  
13 laws applicable to charter schools or to charter school boards of  
14 directors enacted after the effective date of this section.

15        NEW SECTION.    **Sec. 11.**    CHARTER RENEWAL AND REVOCATION.        (1) An  
16 approved plan to establish a charter school is effective for five years  
17 from the first day of operation. At the conclusion of the first three  
18 years of operation, the charter school may apply to the original  
19 sponsor or alternate sponsor for renewal. A request for renewal must  
20 be submitted no later than six months before the expiration of the  
21 charter.

22        (2) A charter school renewal application must include:

23        (a) A report on the progress of the charter school in achieving the  
24 goals; student performance standards, including the student performance  
25 standards adopted by rule by the academic achievement and  
26 accountability commission in accordance with RCW 28A.655.030; the  
27 number and percentage of educationally disadvantaged students served;  
28 and other terms of the charter;

29        (b) A financial statement that discloses the costs of  
30 administration, instruction, and other expenditure objects and  
31 activities of the charter school; and

32        (c) All audit information from independent sources regarding the  
33 charter school, if available.

34        (3) The sponsor or alternate sponsor shall reject the application  
35 for renewal if the academic progress of students in the charter school,  
36 as measured by the standards and assessments in chapter 28A.655 RCW, is

1 inferior, for the most recent two consecutive years, to the average  
2 progress of students in the district in which the charter school is  
3 located when similar student populations are compared.

4 (4) The sponsor or alternate sponsor may reject the application for  
5 renewal if any of the following occurred:

6 (a) The charter school materially violated its charter with the  
7 sponsor or alternate sponsor;

8 (b) The students enrolled in the charter school failed to meet  
9 student performance standards identified in the charter, including the  
10 student performance standards adopted by rule by the academic  
11 achievement and accountability commission in accordance with RCW  
12 28A.655.030;

13 (c) The charter school failed to meet generally accepted standards  
14 of fiscal management; or

15 (d) The charter school violated provisions in law that have not  
16 been waived in accordance with this chapter.

17 (5) A sponsor or alternate sponsor shall give written notice of its  
18 intent not to renew the charter school's request for renewal to the  
19 charter school within three months of the request for renewal to allow  
20 the charter school an opportunity to correct identified deficiencies in  
21 its operation. At the request of the board of directors of the charter  
22 school, the sponsor or alternate sponsor shall review its decision for  
23 nonrenewal within forty-five days of receiving a request for review and  
24 supporting documentation sufficient to demonstrate that any  
25 deficiencies have been corrected from the board of directors of the  
26 charter school.

27 (6)(a) The sponsor or alternate sponsor may revoke a previously  
28 approved charter before the expiration of the term of the charter, and  
29 before application for renewal, if any of the following occurred:

30 (i) The charter school materially violated its charter with the  
31 sponsor or alternate sponsor;

32 (ii) The charter school failed to meet generally accepted standards  
33 of fiscal management; or

34 (iii) The charter school violated provisions in law that have not  
35 been waived in accordance with this chapter.

36 (b) Except in cases of emergency where the health and safety of  
37 children are at risk, a charter may not be revoked unless the sponsor  
38 or alternate sponsor first provides:

1 (i) Written notice to the charter school of the specific violations  
2 alleged;

3 (ii) One or more public hearings in the school district in which  
4 the charter school is located; and

5 (iii) A reasonable opportunity and a sufficient period of time for  
6 the charter school to correct the identified deficiencies.

7 (c) If, after following the procedures in (b) of this subsection,  
8 the sponsor or alternate sponsor determines that revocation of the  
9 charter is necessary to further the intent of this chapter, the sponsor  
10 or alternate sponsor may revoke the charter. The sponsor or alternate  
11 sponsor shall provide for an appeal process upon such a determination.

12 (d) If a sponsor or alternate sponsor elects to revoke the charter,  
13 the sponsor or alternate sponsor, upon a request by the charter school,  
14 shall provide technical assistance to the charter school in completing  
15 the plan required and carrying out the tasks identified in subsection  
16 (7) of this section.

17 (7) A charter school planning to close or anticipating revocation  
18 or nonrenewal of its charter shall provide a plan setting forth a  
19 timeline and the responsible parties for disposition of students and  
20 student records and disposition of finances.

21 (a) Immediately following the decision to close a school, the  
22 school must:

23 (i) Submit to the sponsor or alternate sponsor a list of parent  
24 addresses and proof that the school has communicated the impending  
25 closure of the school to all parents and staff;

26 (ii) Assign staff responsible for transition of student records and  
27 for providing assistance to students and parents in transferring from  
28 the charter school to the district public, private, or home school  
29 chosen by the family;

30 (iii) Provide the names and contact information for staff  
31 responsible for transfer of student records, as well as the projected  
32 transition tasks and timelines to the sponsor or alternate sponsor, and  
33 upon completion of student transition, provide a list of students and  
34 a brief description of the disposition of their student records to the  
35 sponsor or alternate sponsor.

36 (b) Prior to closing the charter school the charter school board of  
37 directors shall:

1 (i) Identify a trustee who will, through the process of closing the  
2 school and for a term of ten years thereafter, assume responsibility  
3 for school and student records, and notify the sponsor or alternate  
4 sponsor of the name and contact information for the trustee;

5 (ii) Determine the amount of anticipated revenue due to the school  
6 as well as anticipated liabilities, and provide a complete asset and  
7 liability report to the sponsor or alternate sponsor;

8 (iii) Create a current and projected payroll and payroll benefits  
9 commitment;

10 (iv) List each employee, job, and the funds necessary to complete  
11 the educational calendar balance of the year, the transition of  
12 students and records, and the administrative close-down tasks;

13 (v) Determine the total moneys required to complete contracts;

14 (vi) Schedule an audit and set aside funds to cover costs; and

15 (vii) Provide the sponsor or alternate sponsor with a plan for the  
16 closure of the school and final disposition of all property owned by  
17 the charter school.

18 NEW SECTION. **Sec. 12.** FUNDING. (1) For charter schools sponsored  
19 by a school district:

20 (a) For purposes of funding, students in charter schools shall be  
21 considered students of the sponsoring district for state apportionment  
22 purposes. Without violating section 13 of this act, the sponsoring  
23 school district shall provide prompt and timely funding for charter  
24 schools in amounts the schools would have generated if the students  
25 were enrolled in a noncharter public school in the district except that  
26 a charter school shall not generate eligibility for small school  
27 assistance. Funding for charter schools shall include regular  
28 apportionment, categorical, student achievement, and nonbasic education  
29 moneys, as appropriate and shall be based on enrollment, staffing, and  
30 other financial information submitted by the charter school to the  
31 school district as required to determine state apportionment amounts;

32 (b) Local levy moneys approved by the voters before the effective  
33 date of a charter between a school district and an applicant shall not  
34 be allocated to a new charter school; however, the school district  
35 shall allocate levy moneys to a conversion charter school. For levies  
36 approved after the effective date of a charter, charter schools shall

1 be included in levy planning, budgets, and funding distribution in the  
2 same manner as other district-sponsored public schools in the district;  
3 and

4 (c) A charter school is eligible for state matching funds for  
5 common school construction if a sponsoring school district determines  
6 it has received voter approval of local capital funds for the project.

7 (2) For charter schools sponsored by an educational service  
8 district or an institution of higher education:

9 (a) For purposes of funding, the charter school shall be considered  
10 a separate school district only for state apportionment purposes and  
11 safety net eligibility. Without violating section 13 of this act, the  
12 superintendent of public instruction shall provide prompt and timely  
13 funding for charter schools through the apportionment funding formulas  
14 in amounts the schools would have generated if the students were  
15 enrolled in a school district except that a charter school shall not  
16 generate eligibility for small school assistance. The funding shall  
17 include regular apportionment, categorical, student achievement, and  
18 nonbasic education moneys and shall be based on enrollment, staffing,  
19 and other financial information submitted by the charter school to the  
20 superintendent of public instruction, as required to determine state  
21 apportionment amounts. Those allocations to charter schools that are  
22 included in RCW 84.52.0531(3) (a) through (c) shall be included in the  
23 levy base of the district in which the charter school is located.

24 (b) No local levy money may be allocated to a charter school if the  
25 charter school is sponsored by an educational service district or an  
26 institution of higher education.

27 (3) To be eligible to receive state categorical program funding, a  
28 charter school must serve students who would be eligible for program  
29 funding if served by the school district.

30 (4) Sponsors and alternate sponsors shall submit, by November 1st  
31 of each year, to the office of the superintendent of public instruction  
32 annual year-end financial information, as prescribed by the  
33 superintendent, for each charter school sponsored in the previous  
34 school year.

35 (5) A conversion charter school shall be entitled to the continued  
36 rent-free use of its existing facility, regardless of whether the  
37 conversion school is sponsored by the local school district, or by an  
38 alternate sponsor if the district has consented to such alternate



1 sponsorship. The district shall remain responsible for major repairs  
2 and safety upgrades that may be required for the continued use of the  
3 facility as a public school. The charter school shall be responsible  
4 for routine maintenance of the facility, including but not limited to  
5 cleaning, painting, gardening, and landscaping.

6 NEW SECTION. **Sec. 13.** ADMINISTRATION FEE. To offset costs of  
7 oversight and administering the charter, a sponsor or an alternate  
8 sponsor may retain up to three percent of state funding and local  
9 excess levy funding, if applicable, that is being driven to the charter  
10 school. Except for the administration fee in this section, no other  
11 offsets or deductions are allowed, whether for central administration  
12 or other off-site support services, from a charter school's per-pupil  
13 share of state appropriations, local levies, or other funds, unless the  
14 charter school has contracted with a school district to obtain specific  
15 additional services.

16 NEW SECTION. **Sec. 14.** LEAVES OF ABSENCE. If a school district  
17 employee makes a written request for an extended leave of absence to  
18 work at a charter school, the school district shall grant the request.  
19 The school district may require that the request for a leave be made up  
20 to ninety days before the employee would otherwise have to report for  
21 duty. The leave shall be granted for any request for up to two years.  
22 If the employee returns to the school district within the two-year  
23 period, the employee shall be hired before the district hires anyone  
24 else with fewer years of statewide service, with respect to any  
25 position for which the returning employee is certificated or otherwise  
26 qualified.

27 NEW SECTION. **Sec. 15.** STUDY OF CHARTER SCHOOLS. Subject to  
28 funding, the Washington institute for public policy shall study the  
29 implementation and effectiveness of this act. The institute shall  
30 report to the legislature on the effectiveness of charter schools in  
31 raising student achievement and the impact of charter schools. The  
32 institute also shall examine and discuss whether and how charter  
33 schools have enhanced education reform efforts and recommend whether  
34 relaxing or eliminating certain regulatory requirements for other  
35 public schools could result in improved school performance at those

1 schools. The institute shall recommend changes to this chapter  
2 including improvements that could be made to the application and  
3 approval process. A preliminary report of the study is due to the  
4 legislature by March 1, 2006, and a final report is due September 1,  
5 2007.

6 NEW SECTION. **Sec. 16.** NUMBER OF CHARTER SCHOOLS. (1)  
7 Applications for charter schools may begin on the effective date of  
8 this section. The maximum number of new charter schools that may be  
9 established under a charter approved in accordance with this chapter  
10 is:

11 (a) In the first year commencing July 1, 2003, and in the second  
12 year commencing July 1, 2004, not more than five per year; and

13 (b) In each of the next four years, commencing July 1st of each  
14 year beginning in 2005 and ending in 2008, not more than fifteen per  
15 year.

16 (2) These annual allocations shall be cumulative so that if the  
17 maximum number of allowable new charters is not reached in any given  
18 year the maximums shall be increased accordingly for the successive  
19 years.

20 (3) Consistent with the legislative intent of this chapter, a  
21 majority of the annual allowable new charter schools that may be  
22 established under subsection (1) of this section shall be reserved  
23 until the 31st day after the effective date of this section, and until  
24 April 1st of each year beginning in 2004 and ending in 2008, for the  
25 implementation of charter schools established for the primary purpose  
26 of serving educationally disadvantaged students, and that are located  
27 in, or accessible to students who live in, geographic areas in which a  
28 large proportion of the students have difficulty meeting state academic  
29 content and student achievement standards, or geographic areas,  
30 including urban and rural areas, in which a large proportion or number  
31 of public schools have been identified for improvement, corrective  
32 action, or restructuring under the federal no child left behind act of  
33 2001.

34 (4) Sponsors and alternate sponsors shall promptly notify the  
35 superintendent of public instruction when a charter is approved, and  
36 shall indicate whether the charter school's primary purpose is to serve  
37 educationally disadvantaged students. In order to ensure compliance

1 with the annual limits for the establishment of new charter schools,  
2 authorization from the superintendent of public instruction must be  
3 obtained before implementing an approved charter for a new school. If  
4 the maximum number of new charters under subsections (1) and (3) of  
5 this section has not been reached when the sponsor notifies the  
6 superintendent of the approval, the superintendent shall authorize the  
7 implementation of the approved charter and the establishment of the  
8 school. If the charters reserved under subsection (3) of this section  
9 are not authorized within thirty days of the effective date of this  
10 section, or by March 31st of each year thereafter and ending in 2008,  
11 the superintendent of public instruction shall notify the sponsors and  
12 alternate sponsors of any other approved charters for which  
13 authorization has not been granted, and shall authorize the  
14 implementation of those charters within the annual limits, regardless  
15 of whether those charters meet the requirements of subsection (3) of  
16 this section.

17 (5) The superintendent of public instruction shall notify eligible  
18 sponsors and eligible alternate sponsors when the maximum allowable  
19 number of new charters is approved each year. If the maximum number is  
20 not reached by the 31st day after the effective date of this section,  
21 or by March 31st of each year thereafter, the superintendent shall  
22 report on the number of charters approved.

23 (6) If the superintendent receives simultaneous notification of  
24 approved charters that exceed the annual allowable limits in  
25 subsections (1) and (3) of this section, the superintendent shall  
26 select approved charters for authorization under subsection (4) of this  
27 section through a lottery process, and shall assign implementation  
28 dates accordingly.

29 (7) The maximum number of charter schools allowed under this  
30 section does not include public schools converting to charter public  
31 schools; however, conversion charter schools shall be considered  
32 charter schools for the purpose of notice to the superintendent of  
33 public instruction required under subsection (4) of this section.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.56 RCW  
35 to read as follows:

36 This section applies to charter schools as defined in section 2 of  
37 this act and the charter school's employees included in the bargaining

1 unit. The bargaining unit of employees of charter schools must be  
2 limited to the employees of the charter school and must be separate  
3 from other bargaining units in the school district or educational  
4 service district unless the charter school is a public school that has  
5 converted to a charter school. The employees of public schools that  
6 have converted to a charter school shall remain members of the  
7 bargaining units in the school district.

8 This section, designating charter schools as employers and charter  
9 school employees as members under the teachers' retirement systems, the  
10 school employees' retirement systems, and the public employees'  
11 retirement systems, applies only if the department of retirement  
12 systems receives determinations from the internal revenue service and  
13 the United States department of labor that such participation does not  
14 jeopardize the status of these retirement systems as governmental plans  
15 under the federal employees' retirement income security act and the  
16 internal revenue code.

17 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.59 RCW  
18 to read as follows:

19 (1) This section applies to collective bargaining agreements  
20 between charter schools and the employees of charter schools included  
21 in the bargaining unit.

22 (a) The bargaining unit of employees of conversion charter schools  
23 must be limited to the employees of the charter school and must be  
24 separate from other bargaining units in the school district or  
25 educational service district for at least the first five years of  
26 operation of the charter school, after which the employees of a  
27 conversion charter school may indicate by a majority vote they desire  
28 to become members of the bargaining unit in the school district in  
29 which the charter school is located.

30 (b) The bargaining unit of employees of new charter schools must be  
31 limited to the employees of the charter school and must be separate  
32 from other bargaining units in the school district or educational  
33 service district for at least the first five years of operation of the  
34 charter school, after which the employees of a new charter school may  
35 indicate by a majority vote they desire to become members of the  
36 bargaining unit in the school district in which the charter school is  
37 located.

1 (2) This section, designating charter schools as employers and  
2 charter school employees as members under the teachers' retirement  
3 systems, the school employees' retirement systems, and the public  
4 employees' retirement systems, takes effect only if the department of  
5 retirement systems receives determinations from the internal revenue  
6 service and the United States department of labor that such  
7 participation does not jeopardize the status of these retirement  
8 systems as governmental plans under the federal employees' retirement  
9 income security act and the internal revenue code.

10 **Sec. 19.** RCW 41.59.080 and 1998 c 244 s 11 are each amended to  
11 read as follows:

12 The commission, upon proper application for certification as an  
13 exclusive bargaining representative or upon petition for change of unit  
14 definition by the employer or any employee organization within the time  
15 limits specified in RCW 41.59.070(3), and after hearing upon reasonable  
16 notice, shall determine the unit appropriate for the purpose of  
17 collective bargaining. In determining, modifying or combining the  
18 bargaining unit, the commission shall consider the duties, skills, and  
19 working conditions of the educational employees; the history of  
20 collective bargaining; the extent of organization among the educational  
21 employees; and the desire of the educational employees; except that:

22 (1) A unit including nonsupervisory educational employees shall not  
23 be considered appropriate unless it includes all such nonsupervisory  
24 educational employees of the employer; and

25 (2) A unit that includes only supervisors may be considered  
26 appropriate if a majority of the employees in such category indicate by  
27 vote that they desire to be included in such a unit; and

28 (3) A unit that includes only principals and assistant principals  
29 may be considered appropriate if a majority of such employees indicate  
30 by vote that they desire to be included in such a unit; and

31 (4) A unit that includes both principals and assistant principals  
32 and other supervisory employees may be considered appropriate if a  
33 majority of the employees in each category indicate by vote that they  
34 desire to be included in such a unit; and

35 (5) A unit that includes supervisors and/or principals and  
36 assistant principals and nonsupervisory educational employees may be

1 considered appropriate if a majority of the employees in each category  
2 indicate by vote that they desire to be included in such a unit; and

3 (6) A unit that includes only employees in vocational-technical  
4 institutes or occupational skill centers may be considered to  
5 constitute an appropriate bargaining unit if the history of bargaining  
6 in any such school district so justifies; and

7 (7) Notwithstanding the definition of collective bargaining, a unit  
8 that contains only supervisors and/or principals and assistant  
9 principals shall be limited in scope of bargaining to compensation,  
10 hours of work, and the number of days of work in the annual employment  
11 contracts; and

12 (8) The bargaining unit of certificated employees of school  
13 districts, educational service districts, or institutions of higher  
14 education that are education providers under chapter 28A.193 RCW must  
15 be limited to the employees working as education providers to juveniles  
16 in each adult correctional facility maintained by the department of  
17 corrections and must be separate from other bargaining units in school  
18 districts, educational service districts, or institutions of higher  
19 education; and

20 (9) Except as provided in sections 17 and 18 of this act, the  
21 bargaining unit for employees of charter schools as defined in section  
22 2 of this act must be limited to the employees of the charter school  
23 and must be separate from other bargaining units in the school district  
24 or educational service district.

25 **Sec. 20.** RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are  
26 each amended to read as follows:

27 Public schools shall mean the common schools as referred to in  
28 Article IX of the state Constitution and those schools and institutions  
29 of learning having a curriculum below the college or university level  
30 as now or may be established by law and maintained at public expense,  
31 including charter schools under chapter 28A.-- RCW (sections 1 through  
32 16 and 21 of this act).

33 NEW SECTION. **Sec. 21.** CAPTIONS NOT LAW. Captions used in this  
34 chapter do not constitute any part of the law.

1        NEW SECTION.   **Sec.22.**   Sections 1 through 16 and 21 of this act  
2   constitute a new chapter in Title 28A RCW.

3        NEW SECTION.   **Sec. 23.**   If any provision of this act or its  
4   application to any person or circumstance is held invalid, the  
5   remainder of the act or the application of the provision to other  
6   persons or circumstances is not affected.

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